



# COUNTY OF LOS ANGELES

## CONTRACT CITIES LIABILITY TRUST FUND CLAIMS BOARD

500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012

### MEMBERS OF THE BOARD

Curtis Morris  
City Council Member  
Mark R. Alexander  
City Manager  
Margaret Finlay  
City Council Member  
Jerome Grooms  
City Manager  
Susan Dever  
City Council Member  
Michael J. Egan  
City Administrator  
Sam Olivito  
California Contract  
Cities Association

December 7, 2005

Honorable Board of Supervisors  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

Re: **Barbara Herrera, et al. v. County of Los Angeles,**  
**Compton Superior Court Case No. TC 018 251;**  
**Barbara Herrera, et al. v. County of Los Angeles,**  
**United States District Court Case No. CV 05-05813**

Dear Supervisors:

The Contract Cities Liability Trust Fund Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$300,000.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Sheriff's Department - Contract Cities Liability Trust Fund - Compton.

Enclosed is the settlement request and a summary of the facts of the case.

The Corrective Action Report by the Sheriff's Department is being transmitted to you under separate cover.

Return the executed, adopted copy to Georgene Salisbury, Suite 648  
Kenneth Hahn Hall of Administration, Extension 4-9910.

Very truly yours,

Curtis Morris, Chair  
Los Angeles County Contract Cities  
Liability Trust Fund Claims Board

CM/gs  
Enclosures

# MEMORANDUM

December 1, 2005

TO: THE COUNTY OF LOS ANGELES CONTRACT CITIES  
LIABILITY TRUST FUND CLAIMS BOARD

FROM: DENNIS M. GONZALES  
Principal Deputy County Counsel  
Law Enforcement Services Division

RE: Barbara Herrera, et al. v. County of Los Angeles  
Compton Superior Court Case No. TC 018251

Barbara Herrera, et al. v. County of Los Angeles  
United States District Court Case No. CV 05-05813

DATE OF  
INCIDENT: July 9, 2003

AUTHORITY  
REQUESTED: \$300,000

COUNTY  
DEPARTMENT: Sheriff's Department - Contract Cities Liability Trust Fund - Compton

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## CLAIMS BOARD ACTION:

☐

Approve

☐

Disapprove

☐

Recommend to Board of  
Supervisors for Approval

\_\_\_\_\_, City Council Member  
**MARGARET FINLAY**

\_\_\_\_\_, City Council Member  
**SUSAN DEVER**

\_\_\_\_\_, City Council Member  
**CURTIS MORRIS**

\_\_\_\_\_, City Manager  
**MICHAEL J. EGAN**

\_\_\_\_\_, City Manager  
**JEROME GROOMES**

\_\_\_\_\_, City Manager  
**MARK ALEXANDER**

\_\_\_\_\_, California Contract Cities Association  
**SAM OLIVITO**

on \_\_\_\_\_, 2005

## SUMMARY

This is a recommendation to settle for \$300,000, the Federal and State Court lawsuits brought by Barbara Herrera and her minor children, Stacey Garcia, Jennifer Garcia, Ernesto Garcia and Henry Garcia. The children are suing for the wrongful death of the children's father, Manuel Garcia, who was shot and killed by Los Angeles County Sheriff's Deputies on July 9, 2003. Ms. Herrera is seeking to recover damages for injuries she received during the shooting.

## LEGAL PRINCIPLES

A public entity is responsible for the negligent acts of its employees when the acts are done in the course and scope of employment.

Public employees may be held liable for the violation of a person's federally protected civil rights when they use excessive force. In addition, the prevailing party in a lawsuit brought under the Federal Civil Rights Act is entitled to an award of reasonable attorneys' fees.

## SUMMARY OF FACTS

On July 9, 2003, at approximately 10:00 p.m., Barbara Herrera called 911 to report that Manuel Garcia, her estranged boyfriend and father of her four children, had assaulted her and her current boyfriend and chased them with a machete.

Sheriff's Deputies responded to Ms. Herrera's home, and she informed them that Mr. Garcia left the location in his vehicle. She gave the Deputies a description of the suspect and his vehicle, which was spotted several minutes later by other Deputies. A pursuit ensued, which ended with Mr. Garcia returning to Ms. Herrera's residence. The Deputies exited their vehicles, and so did Mr. Garcia, who immediately advanced upon the Deputies while wielding a 3-foot iron pipe.

The Deputies ordered Mr. Garcia to stop and drop the weapon. Mr. Garcia ignored the orders and moved toward the front door of the residence. The Deputies again ordered Mr. Garcia to stop and drop the weapon. At that point, Mr. Garcia, who was about 10 feet away from the Sheriff's Deputies, turned and started coming at them with the pipe. Once Mr. Garcia got to within approximately six feet of the nearest Deputy, five Deputies fired their service weapons at him. Mr. Garcia was transported to the hospital, where he died of multiple gunshot wounds.

After the shooting, when Ms. Herrera and her children were being transported to the Sheriff's station to give statements, Ms. Herrera disclosed that she had suffered a grazing wound to her abdomen from a bullet during the shooting. She was transported to the hospital, where she was treated and released.

## DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Barbara Herrera medical expenses	\$ 30,000
Barbara Herrera pain and suffering	\$ 100,000
Loss of care, comfort, and society	
Stacey Garcia	\$ 500,000
Jennifer Garcia	\$ 500,000
Ernesto Garcia	\$ 500,000
Henry Garcia	<u>\$ 500,000</u>
Total	<u><u>\$2,130,000</u></u>

The proposed settlement calls for the County to pay Barbara Herrera and her children \$300,000 for all of their claims for damages, costs, and attorneys' fees in both cases.

## STATUS OF CASE

The trial court proceedings in both Federal and State Court have been suspended pending resolution of this recommended settlement.

Expenses incurred by the County in defense of this matter are attorneys' fees of \$26,603 and \$22,053 in costs.

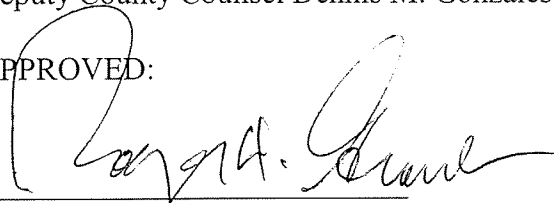
## EVALUATION

This is a case of contested liability. Mr. Garcia was advancing on the Deputies with a deadly weapon, and the Deputies shot him in self-defense. However, 18 bullets struck Mr. Garcia, and some of them struck him in his buttocks due to his twisting after being struck initially. Based on the number of shots, along with the trajectory of some of the bullet wounds, a jury could conclude that the Deputies used excessive force.

A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement. In addition, if the plaintiffs were to prevail at trial, they would also be entitled to an award of reasonable attorneys' fees. Therefore, we recommend a settlement of these matters in the amount of \$300,000. The Sheriff's Department concurs in the recommendation.

If you have questions concerning this matter, please contact me, Assistant County Counsel Roger H. Granbo at (213) 974-1930, or Principal Deputy County Counsel Dennis M. Gonzales at (213) 974-1923.

APPROVED:

A handwritten signature in black ink, appearing to read "Roger H. Granbo", written over a horizontal line.

ROGER H. GRANBO  
Assistant County Counsel  
Law Enforcement Services Division

RHG:scr